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In the High Court of Judicature at Madras

Dated: 29.11.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Appeal Nos.14 and 15 of 2002
and WAMP.Nos.18,19, 2272 and 2273 of 2002

1. The Government of Tamil Nadu,
   rep.by Secretary,
   Food & Civil Supplies Department,
   Fort St.George,
   Madras-9.

2. The Commissioner,
   Civil Supplies & Consumer
   Protection Cell,
   Chepauk, Madras-5.

3. The District Revenue Officer,
   Trichy District.

4. The District Supply Officer,
   Trichy. ..Appellants in both Appeals

..vs..

K.Murugesan ..Respondent in W.A.No.14/2002

N.Narayanan ..Respondent in W.A.No.15/2002

Writ Appeals filed under Clause XV of the Letters Patent against the common order dated 13.11.1998 passed in W.P.No.18261 and 18265 of 1990.

W.P.No.18261 and 18265/1990: Petitions presented to this Court under Article 226 of the Constitution of India to issue writ of certiorarified Mandamus, call for the records of the 3rd Respondent dated 15.11.1990 made in proceedings Rc.SC.1/84249/89 & SC.1/102018/89 and that of the 4th Respondent dated 11.10.1990, 6.10.1990 made in proceedings Rc.SC.1/84249/90 & Rc.SC.1/10298/89

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quash them and consequently direct the respondents to continue the supply of Kerosene to the petitioner as done pursuant to the order of the 4th Respondent in Na.Ka./P.V./R1/84249/89 dated 8.11.1990 and Na.Ka.P.V.C1/102018/89 dated 13.11.1990.

For Appellants : Mr.A.Edwin Prabhakaran,
Govt.Advocate

For Respondents : N.A.

COMMON JUDGMENT

(Common judgment of the Court was
delivered by P.SATHASIVAM,J.,)

Aggrieved by the common order of the learned single Judge dated 13.11.1998 made in W.P.Nos.18261 and 18265 of 1990, Food and Civil Supplies Department, Government of Tamil Nadu and their officers have filed the above writ appeals.

2. The respondent in both the appeals herein / writ petitioners aggrieved by the order of the District Revenue Officer, Trichy, dated 15.11.1990 and of the 4th respondent/ District Supply Officer, Trichy, dated 06.10.1990, filed both the writ petitions for quashing those orders and for consequential direction to the respondents to continue the supply of kerosene to them as done pursuant to the order of the District Supply Officer, Trichy, dated 13.11.1990. The said writ petitions were resisted by the respondents by filing counter affidavit. By the impugned common order dated 13.11.1998, the learned single Judge, without adverting to the conditions prescribed in the Tamil Nadu Kerosene (Regulation of Trade) Order, 1973 and other Government Orders pertaining to grant of kerosene dealership / licence, allowed both the writ petitions. Hence, the present appeals.

3. The learned Government Advocate appearing for the appellants has brought to our notice the various Government Orders prevailing on that date, namely, G.O.Ms.No.978 dated 29.12.1981, Food and Consumer Protection Department and Letter No.202, Food and Consumer Protection Department dated 23.03.1982 as well as Tamil Nadu Kerosene (Regulation of Trade) Order, 1973.

4. We also perused the relevant clauses and directions of the Government issued then and there. It is clear that based on a policy decision, the Government restricted the dealership in kerosene only to those class of people, who exclusively depend on the same for

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their livelihood and there must be benefits / materials to show that they are not having any other source of income for their livelihood. While rejecting the request of the petitioners, the authorities, namely, District Supply Officer as well as District Revenue Officer, considered the conditions prescribed in the Government Orders / Letter and, based on the materials, arrived at a conclusion that they are not eligible to be granted kerosene retail licence. The particulars also show that they possess other properties and are getting income. In view of such factual conclusion by both authorities and in the light of various clauses in the Control Order as well as Government Orders and the Letter prescribing certain conditions coupled with the policy of the Government, namely, restricted dealership in kerosene is only to those class of people who exclusively depend on the same for their livelihood and without any other source of income, we are of the view that the order of the learned Judge, quashing the proceedings of the District Supply Officer and District Revenue Officer, Tiruchirapalli, cannot be sustained. As said earlier, in fact, the learned Judge has not adverted to any of the provisions in the Control Order or the Order of the Government and other communications issued in the form of Letters. We are satisfied that the order of the learned Judge is not supported by any material.

5. Under these circumstances, both the Writ Appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

gl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to the Government of Tamil Nadu,
   Food & Civil Supplies Department,
   Fort St.George,
   Madras-9.

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2. The Commissioner,
   Civil Supplies & Consumer
   Protection Cell,
   Chepauk, Madras-5.

3. The District Revenue Officer,
   Trichy District.

4. The District Supply Officer,
   Trichy.

1 cc to Government Pleader, SR.58582

akm (co)

dv/8.12.06

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